

Reply under 37 C.F.R. § 1.116—Expedited Procedure
Technology Center 2182
U.S. Appl. No.: 09/998,532

Remarks

Reconsideration of this application is requested. Claims 10-22 and 27-34 have been withdrawn by this amendment. Claims 1, 3, 6-8 and 23-26 remain in the application.

Allowed Claims

Applicants would like to gratefully acknowledge the Examiner's indication that claims 1, 3 and 23-26 are allowable. With the exception of claims 6-8 dealt with below, this amendment withdrew remaining claims to place the case either in condition for allowance or in better form for appeal (MPEP 706.07(e)).

Concerning claims 6-8, the Examiner in the prior Office action indicated that claim 9 would be allowable if the objection as being dependent upon a rejected base claim were overcome. Accordingly, the limitations of the allowable dependent claim 9 were incorporated into Applicant's independent claim 6 in the previous amendment dated December 4, 2003. Now, in this Office action mailed February 11, 2004, the Examiner rejects claims 6-8 under 35 USC 103(a) as being unpatentable by Nakano in view of Krasner, and the action has been made FINAL.

The MPEP 706.07(a) states that "Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection not necessitated by amendment of the application by applicant, whether or not the prior art is already of record." Again, the Examiner acknowledged that claim 9 would be allowable if the objection as being dependent upon a rejected base claim were overcome. It is pointed out that in response to this statement by the Examiner, the Applicant amended claim 6 to include the elements and limitations of claim 9. Applicant believes that under MPEP 706.07(a) the action on the merits should not be made final. The Examiner has introduced a new ground of rejection (i.e., the 35 USC 103(a) rejection) not necessitated by amendment on the application by the Applicant.

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Further, Applicant would like to point out that the claim 6 recited in the most recent Office action is not the current claim 6 as previously amended (see the previous amendment dated December 4, 2003). In particular, the recitation "a channel to store data" is no longer part of amended claim 6. Also, the amended claim 6 includes additional elements and limitations from claim 9 that are not cited by the Examiner. A reconsideration of this application, especially as regarding claims 6-8, is requested.

Conclusion

The foregoing is submitted as a full and complete response to the Office Action mailed February 11, 2004, and it is submitted that claims 1, 3, 6-8, and 23-26 are in condition for allowance. Reconsideration of the present rejection to claims 6-8 is requested. Reconsideration that the action be made final is also requested. Allowance of these claims is earnestly solicited.

Should it be determined that an additional fee is due under 37 CFR §1.16 or 1.17, or any excess fee has been received, please charge that fee or credit the amount of overcharge to deposit account #50-0221.

If the Examiner believes that there are any informalities that can be corrected by an Examiner's amendment, a telephone call to the undersigned at (480) 552-1388 is respectfully solicited.

Respectfully submitted,
Scott C. Glenn



Lanny L. Parker
Patent Agent
Reg. No. 44,281

c/o Blakely, Sokoloff, Taylor & Zafman, LLP
12400 Wilshire Blvd., Seventh Floor
Los Angeles, CA 90025-1026
(503) 264-0967

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